



BEFORE THE PUBLIC UTILITIES COMMISSION FILED
OF THE STATE OF CALIFORNIA 01-08-07

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Order Instituting Rulemaking to Implement Portions of AB 117 Concerning Community Choice Aggregation

Rulemaking 03-10-003
(October 2, 2003)

**REPLY OF THE
CITY OF CERRITOS
TO THE RESPONSE OF
SOUTHERN CALIFORNIA EDISON COMPANY**

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January 8, 2007

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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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In accordance with Rule 11.1(f) of the Rules of Practice and Procedure of the Public Utilities Commission of the State of California (“Commission”), and written permission received from the assigned Administrative Law Judge on January 4, 2007, the city of Cerritos files this limited reply to the response of Southern California Edison Company (“SCE”), dated December 28, 2006 (“SCE Response”), to the motion filed by Cerritos requesting the adoption of Cost Responsibility Surcharge (“CRS”) true-up calculations in accordance with Resolution E-3990.

In its response, SCE discloses its opposition to the use of a negative Indifference Rate in 2006 to offset a positive Indifference Rate in 2005. Instead of focusing on the unique facts surrounding Cerritos’ situation, SCE attempts to universally sweep Cerritos under the Direct Access (“DA”) and Departing Load (“DL”) rug. Indeed, while there are similarities between Cerritos’ Community Aggregation (“CA”) customers and DA/DL customers, there are also relevant distinctions. Chief among these distinctions is the requirement that the interim Cost Responsibility Surcharge (“CRS”) paid by Cerritos’ CA customers would be trued-up over an initial 18-month period (“Interim True-up Period (2005-2006)”) based on principles

established in the Community Choice Aggregation (“CCA”) rulemaking proceeding.¹ An accurate true-up cannot occur for the Interim True-up Period (2005-2006) unless a negative Indifference Rate for 2006 is allowed to offset a positive Indifference Rate for 2005.²

SCE appears to base its opposition on two related arguments. SCE’s first argument against Cerritos’ request is that “this was not authorized by the Commission in D.06-07-030 for DA and MDL CRS obligations...[because] the Commission in D.06-07-030 only authorized the use of a negative indifference rate to offset an existing positive CRS undercollection, which Cerritos’ CA customers do not have.”³ In short, what SCE is saying is that solely because Cerritos’ CA customers pre-paid an estimated, interim CRS that has now been revealed to be significantly more than the actual CRS, resulting in an overcollection, the offset methodology should not apply to Cerritos’ CA customers during the Interim True-up Period (2005-2006). According to SCE’s logic, the use of the offset methodology during the Interim True-up Period (2005-2006) is only available to those customers who have the “fortune” of having pre-paid no CRS (MDL customers) or of having pre-paid an amount less than actual CRS (DA customers), both situations resulting in an undercollection of actual CRS. There is no soundness to or policy support for SCE’s argument, and such an argument only diverts attention away from the real issue associated with the actual true-up of the CRS for Cerritos’ CA customers.

¹ See Cerritos Motion at 7-8.

² As it did in its motion, Cerritos reiterates that the issue of using a negative Indifference Rate to offset a positive Indifference Rate during the Interim True-up Period (2005-2006) is different than the issue identified as question 4 (on page 4 of the Proposed Decision and Finding of Fact 4). Cerritos is not addressing a future period. Rather, Cerritos is only addressing the 18-month period (2005-2006) during which Cerritos’ CA customers actually paid the interim CRS and for which an actual true-up is required pursuant to past Commission decisions.

³ SCE Response at 7-8.

The fact that, in D.06-07-030, the Commission expressly allowed offsetting in the context of an *under*collected DA/DL CRS balance should not be used as a general rule to exclude offsetting in the context of an initial *over*collected CA CRS balance, as proposed by SCE. As an initial matter, the issue of whether or not offsetting should be allowed in the context of an initial overcollected balance was not even before the Commission. In D.06-07-030, the Commission was only dealing with customers (DA and DL) who had an initial *under*collected CRS balance; the Commission was not dealing with customers who had an initial *over*collected CRS balance. More importantly, however, in the context of CCA and the interim \$0.02 per kWh CRS, the primary issue is not the initial status or level of the CRS balance (*i.e.*, whether it is initially undercollected or overcollected); rather, the primary issue is whether or not a CRS “true-up” has actually occurred over a specified true-up period.⁴ As Cerritos explained previously, during the Interim True-up Period (2005-2006) an accurate measurement of overall CRS for Cerritos’ CA customers cannot be achieved if a negative Indifference Rate in 2005 is not allowed to offset a positive Indifference Rate in 2006.⁵ And, if an accurate measurement of overall CRS is not achieved, the Commission will not fulfill its repeated commitment that the interim CRS “shall be subject to true-up based on actual DWR and utility liabilities.”⁶

⁴ See Cerritos Motion at 7-8, referring to the first CCA decision (D.04-12-046) in which the Commission stated that the CCA CRS “amount will be trued-up and recalibrated in 18 months or when the utilities’ forecast CRS is more than 30% higher or lower than \$.020/kWh.” (See D.04-12-046 at 17.)

⁵ See, *e.g.*, Cerritos Motion at 11, referring to the Commission’s reliance in D.06-07-030 on the Commission’s previous conclusions in D.05-12-045, namely, that viewing ongoing CTC over an expanded period of time yielded “a more accurate measurement of total above-market costs over time.” (See D.06-07-030 at 41.)

⁶ See D.04-12-046 at 44. See also, *id.* at 66-67; Conclusion of Law 26.

SCE’s second argument against Cerritos’ request is that granting Cerritos’ request would impermissibly result in a greater overcollection. It is unclear why SCE repeatedly states that granting Cerritos’ request will “add to the overcollection.”⁷ It appears that SCE’s repeated use of the phrase is aimed at creating the impression that granting Cerritos’ request would result in cost shifting to bundled customers.⁸ No cost shifting will result from granting Cerritos’ request. Granting Cerritos’ request would neither “add to” nor “subtract from” the CRS overcollection, but would instead establish what cost factors should be included in the true-up calculation for the Interim True-up Period (2005-2006). Stated differently, the primary question is not whether the CRS refund will be larger. The primary question is what methodology should be used to true-up the interim CRS amount that Cerritos’ CA customers actually paid in the Interim True-up Period (2005-2006) so that it reflects a CRS amount the only includes actual net liabilities during this same period.

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⁷ See, e.g., SCE Response at 3, 6, and 8.

⁸ See, e.g., *id.* at 6 (“If the Commission authorized this, Cerritos’ CA customers’ overcollection for 2005 would be greater, and they would be eligible for a larger CRS refund.”).

Cerritos appreciates the opportunity to provide a reply to the above-described issues contained in SCE's response.

Dated: January 8, 2007

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott Blaising", with a stylized flourish at the end.

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CERTIFICATE OF SERVICE

I certify that the following is true and correct:

On January 8, 2007, I caused to be served an electronic copy of the attached:

**Reply Of The City Of Cerritos To The Response
Of Southern California Edison Company**

on all known parties to R.03-10-003, or their attorneys of record, for whom an e-mail address has been provided. I served a copy of the document on those without e-mail addresses by mailing the document by first-class mail addressed as follows:

See attached service list

Executed this 8th day of January 2007, at Sacramento, California.

A handwritten signature in black ink, appearing to read "Vicki Ferguson", with a long horizontal line extending to the right.

Vicki Ferguson

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